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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,115	06/25/2003	Curt A. Steeb	MS1-1463US	3691
22801	7590	08/16/2004	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			WOOD, WILLIAM H	
			ART UNIT	PAPER NUMBER
			2124	
DATE MAILED: 08/16/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/607,115

Applicant(s)

STEEB ET AL.

Examiner

William H. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/14/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

Claims 1-38 are pending and have been examined.

### *Information Disclosure Statement*

1. The information disclosure statement (IDS) submitted on 14 October 2003 was considered by the examiner.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-7, 10-11, 14-16, 18-22, 27-30 and 32-38 are rejected under 35 U.S.C. 102(a) as being anticipated by **Babbitt** et al. (US Patent Application Publication US 2002/0198972).

### Claim 1

**Babbitt** disclosed an apparatus configured to manage installation of operating systems on a plurality of computing devices, wherein the installation is performed across the plurality of computing devices both concurrently and asynchronously (*page 1, paragraphs 5-7*).

Claim 2

**Babbitt** disclosed an apparatus as recited in claim 1, wherein the installation comprises transferring multiple portions of data to each of the plurality of computing devices, and wherein some of the multiple portions are transferred to the plurality of computing devices concurrently and other of the multiple portions are transferred to the plurality of computing devices asynchronously (*page 1, paragraphs 5-7; first network address, then operating system files*).

Claim 3

**Babbitt** disclosed an apparatus as recited in claim 2, wherein the portions that are transferred to the plurality of computing devices concurrently are larger than the portions transferred to the plurality of computing devices asynchronously (*page 1, paragraphs 5-7; files larger than address*).

Claim 4

**Babbitt** disclosed an apparatus as recited in claim 2, wherein the portions that are transferred to the plurality of computing devices concurrently comprise an image of the operating system being deployed (*page 1, paragraphs 5-7; files*).

Claim 5

**Babbitt** disclosed an apparatus as recited in claim 1, wherein installation of the operating systems is performed in multiple steps, and wherein the apparatus is

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configured to perform a first set of the multiple steps asynchronously across the plurality of computing devices, and, after a particular one of the multiple steps is completed, to perform one or more of the remaining steps of the multiple steps concurrently across the plurality of computing devices (*page 1, paragraphs 5-7; first network address, then operating system files*).

Claim 6

**Babbitt** disclosed an apparatus as recited in claim 5, wherein the one or more remaining steps includes a step of downloading an operating system image to the plurality of computing devices (*page 1, paragraphs 5-7; first network address, then operating system files*).

Claim 7

**Babbitt** did not explicitly state an apparatus as recited in claim 1, wherein the apparatus further comprises:

- ♦ a controller to maintain a record of the plurality of computing devices being managed by the apparatus (*page 1, paragraph 6; receiving address for communication to other computers*);
- ♦ a network boot service to control how the plurality of computing devices are to boot (*page 1, paragraphs 5-7; boot service being the collective boot operations of the various systems*); and

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- ♦ image distribution service to store one or more operating system images and that can be installed as the operating system for one or more of the plurality of computing devices (*page 1, paragraph 7*).

Claim 10

**Babbitt** disclosed a method of deploying an operating system on a plurality of computing devices, the method comprising:

- ♦ performing a first portion of an installation process on each of the plurality of computing devices asynchronously across the plurality of computing devices (*page 1, paragraphs 5-7*); and
- ♦ performing a second portion of the installation process on each of the plurality of computing devices concurrently (*page 1, paragraphs 5-7*).

Claim 11

**Babbitt** disclosed a method as recited in claim 10, wherein performing the second portion comprises downloading an operating system image to the plurality of computing devices (*page 1, paragraphs 5-7*).

Claim 14

**Babbitt** disclosed one or more computer readable media having stored thereon a plurality of instructions that, when executed by one or more processors, causes the one or more processors to:

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- ♦ receive, from each of a plurality of computing devices, an indication that the computing device is to have an operating system installed on the computing device (*page 1, paragraphs 5-7*);
- ♦ for each of the plurality of computing devices, identify, in response to receiving the indication, a set of steps to be taken in order to install an operating system on the computing device (*page 1, paragraphs 5-7*); and
- ♦ control installation of the operating systems on the plurality of computing devices asynchronously and in parallel (*page 1, paragraphs 5-7*).

Claim 15

**Babbitt** disclosed one or more computer readable media as recited in claim 14, wherein the indication that the computing device is to have an operating system installed is an indication that the computing device has been powered-on (*page 1, paragraph 6*).

Claim 16

**Babbitt** disclosed one or more computer readable media as recited in claim 14, wherein one or more of the plurality of computing devices currently has no operating system installed (*page 1, paragraph 5, first three sentences*).

Claim 18

**Babbitt** disclosed one or more computer readable media as recited in claim 14, wherein the installation comprises transferring multiple portions of data to each of the plurality of



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computing devices, and wherein some of the multiple portions are transferred to the plurality of computing devices in parallel and other of the multiple portions are transferred to the plurality of computing devices asynchronously (*page 1, paragraphs 5-7*).

Claim 19

**Babbitt** disclosed one or more computer readable media as recited in claim 18, wherein the portions that are transferred to the plurality of computing devices in parallel are larger than the portions transferred to the plurality of computing devices asynchronously (*page 1, paragraphs 5-7; files larger than address*).

Claim 20

**Babbitt** disclosed one or more computer readable media as recited in claim 18, wherein the portions that are transferred to the plurality of computing devices in parallel comprise an image of the operating system being deployed (*page 1, paragraphs 5-7*).

Claim 21

**Babbitt** disclosed one or more computer readable media as recited in claim 14, wherein the instructions cause the one or more processors to perform multiple steps of the set of steps asynchronously across the plurality of computing devices, and, after a particular one of the set of steps is completed, to perform one or more of the remaining steps of

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the set of steps in parallel across the plurality of computing devices (*page 1, paragraphs 5-7*).

Claim 22

**Babbitt** disclosed one or more computer readable media as recited in claim 21, wherein the one or more remaining steps includes a step of downloading an operating system image to the plurality of computing devices (*page 1, paragraphs 5-7*).

Claims 27 and 32-38

The limitations of claims 27 and 32-38 correspond to the limitations of claims 1-7, 10-11, 14-16, 18-22 and 27-30 and as such are rejected in the same manner.

Claim 28

**Babbitt** disclosed a method as recited in claim 27, wherein the same operating system is to be installed on each of the plurality of devices (*page 1, paragraphs 5-7; clearly some systems are installing the same OS from the same multicasting server*).

Claim 29

**Babbitt** disclosed a method as recited in claim 27, wherein a different operating system is to be installed on at least a subset of the plurality of devices (*page 1, paragraphs 5-7; clearly some system are installing differing OS's from differing multicasting servers*).

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Claim 30

**Babbitt** disclosed a method as recited in claim 27, wherein one or more of the plurality of devices currently has no operating system installed (*page 1, paragraph 5, first three sentences*).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Babbitt et al.** (US Patent Application Publication US 2002/0198972) in view of **GLAXO GROUP Limited** (WIPO: WO 01/16701 A2).

Claim 8

**Babbitt** did not explicitly state an apparatus as recited in claim 1, wherein the apparatus further comprises a network boot service to:

- ♦ receive, from one of the plurality of computing devices, information describing *hardware* installed on the computing device; and
- ♦ use the received information to generate a deployment agent to be downloaded to the computing device and used to install the operating system on the computing device.

**GLAXO** demonstrated that it was known at the time of invention to harvest system information including hardware from a client device (page 3, lines 13-16); and to generate a specific agent/script to install an operating system on the client (page 3, lines 23-28). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Babbitt** with client specific information and a specific script/agent as found in **GLAXO's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide easy (remote and repeatable) administration of software installation (**GLAXO**: page 3, line 30 to page 4, line 24).

Claim 23

**Babbitt** did not explicitly state one or more computer readable media as recited in claim 14, wherein the plurality of instructions further cause the one or more processors to:

- ♦ receive, from one of the plurality of computing devices, information describing *hardware* installed on the computing device; and
- ♦ use the received information to generate a deployment agent to be downloaded to the computing device and used to install the operating system on the computing device.

**GLAXO** demonstrated that it was known at the time of invention to harvest system information including hardware from a client device (page 3, lines 13-16); and to generate a specific agent/script to install an operating system on the client (page 3, lines 23-28). It would have been obvious to one of ordinary skill in the art at the time of

invention to implement the installation system of **Babbitt** with client specific information and a specific script/agent as found in **GLAXO's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide easy (remote and repeatable) administration of software installation (**GLAXO**: page 3, line 30 to page 4, line 24).

6. Claims 9, 13 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Babbitt** et al. (US Patent Application Publication US 2002/0198972) in view of **Curtis** et al. (USPN 6,687,902).

Claim 9

**Babbitt** did not explicitly state an apparatus as recited in claim 1, wherein the installation comprises maintaining a record of what operations are performed when installing the operating systems on the plurality of computing devices. **Curtis** demonstrated that it was known at the time of invention to record installation steps (column 6, lines 38-47). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Babbitt** with the logging of installation steps/changes as found in **Curtis's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide a system, which can undo changes or fix errors created by incorrect or mistaken installations (**Curtis**: column 6, lines 38-47).

Claim 13

**Babbitt** disclosed a method as recited in claim 10, further comprising adding an indication of the installation process performed on each of the plurality of computing devices to a log. **Curtis** demonstrated that it was known at the time of invention to record installation steps (column 6, lines 38-47; column 5, line 46 to column 6, line 2). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Babbitt** with the logging of installation steps/changes as found in **Curtis's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide a system, which can undo changes or fix errors created by incorrect or mistaken installations (**Curtis**: column 6, lines 38-47).

Claim 26

**Babbitt** did not explicitly state one or more computer readable media as recited in claim 14, wherein the plurality of instructions further cause the one or more processors to log, for each of the plurality of computing devices, the set of steps taken in order to install the operating system on the computing device. **Curtis** demonstrated that it was known at the time of invention to record installation steps (column 6, lines 38-47). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Babbitt** with the logging of installation steps/changes as found in **Curtis's** teaching. This implementation would have been obvious because one of

ordinary skill in the art would be motivated to provide a system, which can undo changes or fix errors created by incorrect or mistaken installations (**Curtis**: column 6, lines 38-47).

7. Claims 12, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Babbitt** et al. (US Patent Application Publication US 2002/0198972) in view of **GLAXO** GROUP Limited (WIPO: WO 01/16701 A2) in further view of **Hofmann** et al. (USPN 6,236,983).

Claim 12

**Babbitt** did not explicitly state a method as recited in claim 10, wherein performing the first portion comprises:

- ♦ downloading a deployment agent loader to obtain, from each of the plurality of computing devices, information describing hardware installed on each of the plurality of computing devices; and
- ♦ downloading, to each of the plurality of computing devices, a deployment agent, wherein the deployment agent downloaded to a particular computing device is generated based on the received information regarding the particular computing device.

**GLAXO** demonstrated that it was known at the time of invention to harvest system information including hardware from a client device (page 3, lines 13-16); to generate a specific agent/script to install an operating system on the client (page 3, lines 23-28);

and to download the generated script/agent (page 3, lines 5-7). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Babbitt** with client specific information and a specific script/agent as found in **GLAXO**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide easy (remote and repeatable) administration of software installation (**GLAXO**: page 3, line 30 to page 4, line 24).

**Hofmann** demonstrated that it was known at the time of invention to download discovery agents for information gathering (column 3, lines 35-41). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the operating system installation system of **Babbitt** with downloading discovery agent software as found in **Hofmann**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to reduce user interaction (**Hofmann**: column 3, lines 41-43) and maintain easily administered central administrative control (**GLAXO**: page 3, line 30 to page 4, line 24).

#### Claim 24

**Babbitt** did not explicitly state one or more computer readable media as recited in claim 14, wherein the set of steps includes steps of:

- ♦ downloading a deployment agent loader to one of the plurality of computing devices;



- ♦ receiving, from the deployment agent loader, information describing hardware installed on the one computing device;
- ♦ dynamically generating a deployment agent for the one computing device based at least in part on the hardware installed on the one computing device; and
- ♦ downloading the dynamically generated deployment agent to the one computing device.

**GLAXO** demonstrated that it was known at the time of invention to harvest system information including hardware from a client device (page 3, lines 13-16); to generate a specific agent/script to install an operating system on the client (page 3, lines 23-28); and to download the generated script/agent (page 3, lines 5-7). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Babbitt** with client specific information and a specific script/agent as found in **GLAXO**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide easy (remote and repeatable) administration of software installation (**GLAXO**: page 3, line 30 to page 4, line 24).

**Hofmann** demonstrated that it was known at the time of invention to download discovery agents (column 3, lines 35-41). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the operating system installation system of **Babbitt** with downloading discovery agent software as found in **Hofmann**'s

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teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to reduce user interaction (**Hofmann**: column 3, lines 41-43) and maintain easily administered central administrative control (**GLAXO**: page 3, line 30 to page 4, line 24).

Claim 25

**Babbitt**, **GLAXO** and **Hofmann** or more computer readable media as recited in claim 24, wherein the set of steps further includes:

- ♦ downloading, in response to a request received from the deployment agent on the one computing device, an image of an operating system to the one computing device (**Babbitt**: page 1, paragraphs 5-7).

8. Claims 17 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Babbitt** et al. (US Patent Application Publication US 2002/0198972) in view of **Agnihotri** et al. (USPN 6,763,456).

Claim 17

**Babbitt** did not explicitly state one or more computer readable media as recited in claim 14, wherein one or more of the plurality of computing devices currently has an operating system installed. **Agnihotri** demonstrated that it was known at the time of invention to install clean/update installations (column 9, lines 38-48), thus an operating system already is installed. It would have been obvious to one of ordinary skill in the art at the

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time of invention to implement the installation system of **Babbitt** with update or replace an existing operating system as found in **Agnihotri's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to keep a system state-of-the-art and repair damaged systems (**Agnihotri**: column 9, lines 38-48).

Claim 31

**Babbitt** did not explicitly state a method as recited in claim 27, wherein one or more of the plurality of devices currently has an operating system installed. **Agnihotri** demonstrated that it was known at the time of invention to install clean/update installations (column 9, lines 38-48), thus an operating system already is installed. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Babbitt** with update or replace an existing operating system as found in **Agnihotri's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to keep a system state-of-the-art and repair damaged systems (**Agnihotri**: column 9, lines 38-48).

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***Correspondence Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (703)305-3305. The examiner can normally be reached 7:30am - 5:00pm Monday thru Thursday and 7:30am - 4:00pm every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703)305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-7239 for regular communications and (703)746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

William H. Wood  
August 5, 2004

*Kakali Chaki*

KAKALI CHAKI  
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